

Message Text

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PAGE 01 MANILA 12366 100553Z
ACTION EA-09

INFO OCT-01 ISO-00 L-03 SCA-01 SCS-03 PM-05 INR-07
/029 W

-----063891 100556Z /10

R 090805Z AUG 77
FM AMEMBASSY MANILA
TO SECSTATE WASHDC 3501
SECDEF WASHDC
INFO DEPT JUSTICE WASHDC
CSAF (JACI) WASHDC
CINPAC/JA
CINCPACAF/JA
CINCPACREPPHIL/JA
13AF CLARK/JA
3CSG CLARK/JA

C O N F I D E N T I A L MANILA 12366

JUSTICE FOR RISTAU, FOREIGN LITIGATION UNIT

E.O. 11652: GDS
TAGS: MILI, RP
SUBJECT: NUGUID VS GAINES, ET AL (CIVIL CASE)

REF: (A) 13 AF MSG DTG 030745Z AUG 77 (NOTAL),
(B) STATE 178425, DTG 292015Z JUL 77, (C) MANILA 11190,
DTG 210602Z JUL 77

1. IN VIEW OF WHAT APPEAR TO BE VALID RESERVATIONS RAISED
BY REF A CONCERNING ADVISABILITY OF ADMINISTRATIVE CLAIMS
SETTLEMENT IN THIS CASE, EMBASSY SUGGESTS RECONSIDERATION
OF DRAFT REPLY TO DEPARTMENT OF FOREIGN AFFAIRS (DFA) SET
OUT IN PARA 5, REF C. SECOND SENTENCE OF DRAFT COULD BE
MODIFIED TO READ:

QUOTE - ...HAS NOT GIVEN ITS CONSENT END QUOTE INSTEAD OF:
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QUOTE - ...DOES NOT GIVE END QUOTE IN ORDER TO GIVE STATEMENT
A CHARACTER MORE OF FACTUAL RECITATION THAN ONE REFLECTING
AN UNATZERABLE U.S. STANCE INVITING A DFA RESPONSE.

2. AJTXMHERNATIVE COURSE WOULD BE NOT TO RESPOND TO NOTE
AT ALL BUT TO AUTHORIZE ATTORNEY LUNA TO MAKE REPRESENTATIONS
TO JUDGE ON BEHALF OF USG ALONG LINES PROPOSED IVPMRA 5,

REF C. EMBASSY UNDERSTANDS JUDGE HAS ALREADY PRIVATELY INDICATED INCLINATION TO DISMISS CASE AS TO COLONELS DAIGLE WBYARENSLEY ON PROPER MOTION. SHE SHOULD BE SIMILARLY RECEPTIVE TO MOTION TO DISMISS ON BEHALF OF USG. LUNA WOULD PREFER AND HAS OFFERED TO REPRESENT DEFENDANT USG WITHOUT CHARGE IN CONNECTION WITH DEFENSE OF INDIVIDUALLY NAMED PARTIES RATHER THAN BEING IN WHAT HE DESCRIBES AS AWKWARD POSITION OF RAISING OFFICIAL ACTS DOCTRINE AS TO INDIVIDUALS BUT WITHOUT AUTHORITY TO REPRESENT CODEFENDANT USG WHICH HAS IMPARTED THE OFFICIALITY TO THE ACTS COMPLAINED OF.

3. SHOULD WASHINGTON AGENCIES SHARE RESERVATIONS RAISED BY REF A, EMBASSY RECOMMENDS COURSE OF ACTION ALONG LINES OF PARAS 1 OR 2 ABOVE OR BOTH. FYI - LUNA HAS GRATUITOUSLY CAUTIONED THAT PAYMENT OF CLAIM IN THIS CASE WOULD INVITE EXTENSIVE IMITATION. END FYI.
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Message Attributes

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Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
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